Remarks

Amendments to the Claims

The claims have been amended to clarify the claim language by canceling redundant claim combinations. Claims 45, 52-54 and 62-64 have been canceled. New dependent claims 65-67 have been added.

Independent claim 44 has been amended to include the limitation of canceled claim 45 and to correct Markush language. Independent claims 44 and 55 have been amended to clarify that the drug delivery system comprises the one or more factors. Support for these amendments can be found in the specification at least in para. [0076].

Claims 47 and 57 have been amended to include nylon in the list of polymeric materials. Support for these amendments can be found in the specification at least in para. [0075]. Claim 57 was further amended to replace "method" with "implant".

New dependent claims 65 and 67 further define materials for the polymeric mesh. Support for new claims 65 and 67 can be found at least at para. [0076].

New dependent claim 66 includes the option step previously included in claim 44.

Response to Restriction Requirement

Restriction Requirement

In the Office Action mailed March 16, 2010, the claims were divided into two groups, Group I, claims 44-54 and 57-61, drawn to a method of recruiting progenitor cells using an implant and Group II, claims 55, 56, and 62-64, drawn to the implant composed of polymeric mesh housing and a drug delivery system.

In response, applicants elect Group II, claims 55, 56, and 62-64 with traverse.

The Examiner acknowledges that the claims of Groups I and II share the common technical feature of requiring "an implant including one of growth factors, angiogenic/vasculogenic factors or bone marrow factors." However, the Examiner alleged that this feature is disclosed in U.S. Publication No. 2003/0082148 to Ludwig *et al.* ("Ludwig").

Contrary to the Examiner's assertion, Ludwig does not disclose incorporating growth factors, angiogenic/vasculogenic factors or bone marrow factors in an implant. Rather, Ludwig discloses administering to a patient various compounds known to mobilize target cells, to thereby enhance the concentration of target cells in the blood stream. Ludwig, para. [0080]. These compounds are administered systemically, to increase the blood concentration of circulating target cells, such as by intramuscular injection or by virus mediated cell transfection. Ludwig, para. [0080] and [0081].

Ludwig does not disclose or suggest including within the implant the growth factors, angiogenic/vasculogenic factors or bone marrow factors, let alone within a drug delivery system, as required by the claims. Therefore Groups I and II share a single general inventive concept and should be examined together.

Election of Species

The Office Action also required election of a species from among (1) the types of factor to be included in the implant (2) the types of polymer and (3) the types of progenitor cell. In response, applicants elect for examination (1) bone marrow factors (2) nylon for the type of polymer, (c) hematopoietic progenitor cells for the type of progenitor cell.

The Office Action further required an election of bone marrow factors from among the bone marrow factor species.

In response, Applicants elect GM-CSF.

Claims 44, 46-51 and new claims 65 and 66 of Group I, and claims 55-61 and new claim 67 of Group II read on the elected species. Applicants make this species election with the understanding that upon a finding that the elected species are patentable, the generic claims will be searched and examined.

Favorable consideration of all of the pending claims, claims 44, 46-51, 55-61, and 65-67, is respectfully solicited.

Respectfully submitted,

/Rivka D. Monheit/
Rivka D. Monheit
Reg. No. 48,731

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PABST PATENT GROUP, LLP
1545 Peachtree Street, NE
Suite 320
Atlanta, Georgia 30309
(404) 879-2152
(404) 879-2160 (fax)